

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA**CRIMINAL PETITION No.1978 of 2023****ORDER:**

1. Heard Sri K.Balakrishna, learned counsel for the petitioners, learned Additional Public Prosecutor who is representing Respondent No.1-State and Sri S.S.R.Murthy, learned counsel appearing for Respondent No.2/defacto complainant.
2. Seeking pre-arrest bail, the present Criminal Petition is filed under Section 438 Cr.P.C. on behalf of the petitioners, who are arrayed as Accused Nos.1 & 2 in Crime No.58 of 2023 of Chikkadpally Police Station.
3. The matrix of the case as could be perceived through the contents of the complaint is that the 2nd respondent/defacto complainant is the daughter of the deceased-B.Uday Raj. The 1st petitioner is the brother of the deceased-Uday Raj. The 2nd petitioner is the son of the 1st petitioner. In the absence of the defacto complainant who was residing at USA, taking advantage of the ill-health of the deceased-Uday Raj, the petitioners got transferred the

property of the deceased-Uday Raj in their name through a sale deed.

4. Making his submission, learned counsel for the petitioners contends that even if the contents of the complaint are taken to be true, the offences alleged to have been committed by the petitioners are punishable with imprisonment below seven years and therefore, there is every obligation on part of the concerned Police to serve notice under Section 41-A Cr.P.C. Learned counsel also submits that the deceased-Uday Raj, with his free will and volition, has executed the sale deed in favour of the petitioners and therefore, the contents of the complaint are false.

5. The submission of the learned Additional Public Prosecutor is that the case is still under investigation and it has to be verified whether the deceased-Uday Raj had indeed executed the alleged document.

6. The submission of the learned counsel for the 2nd respondent is that the deceased never executed any document and the alleged sale deed was created by the petitioners taking advantage of the ill-health of the deceased-Uday Raj.

7. In reply to the said submission, learned counsel for the petitioners contends that the dispute, if any, is purely civil in nature.

8. Having considered the nature of the dispute and also taking into consideration the submission of the learned counsel for the petitioners that the offences alleged to have been committed by the petitioners are punishable with imprisonment for a period less than seven years and as the learned Additional Public Prosecutor did not state that the arrest of the petitioners is required, this Court is of the view that the request of the petitioners can be honoured, however, conditionally.

9. In the result, the Criminal Petition is allowed with the following conditions:

- (i) The petitioners/Accused Nos.1 & 2 are directed to surrender before the concerned Court within ten (10) days. On such surrender, they shall be enlarged on bail on their executing a personal bond for Rs.50,000/- (Rupees Fifty Thousand only) each with two sureties for like-sum each to the satisfaction of the Court concerned. The sureties are directed to submit their two latest passport size photographs at the time of furnishing solvency. One such

photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.

- (ii) The petitioners/Accused Nos.1 & 2 shall report before the Station House Officer, Chikkadpally Police Station, on every Sunday and Thursday between 10.30 A.M. and 12:00 P.M. till filing of final report.
- (iii) The petitioners/Accused Nos.1 & 2 should not involve in any unlawful activity.
- (iv) The petitioners/Accused Nos.1 & 2 should afford all assistance for the proper investigation of the case.
- (v) The petitioners/Accused Nos.1 & 2 should not cause the evidence of the offence disappear.
- (vi) The petitioners/Accused Nos.1 & 2 should not tamper with the evidence in any manner.
- (vii) The petitioners/Accused Nos.1 & 2 should not by way of inducement, threat or promise, dissuade any person who is acquainted with the facts of the case, from disclosing such facts to the Court or to the Police Officer.
- (viii) In case petitioners/Accused Nos.1 & 2 hold a passport, they shall surrender the same.

- (ix) The petitioners/Accused Nos.1 & 2 should ensure their presence whenever required by the Court or Police.
- (x) The petitioners/Accused Nos.1 & 2 shall not leave India without previous permission of the Court concerned.
- (xi) The petitioners/Accused Nos.1 & 2 shall file an affidavit before the Court concerned disclosing the following particulars:-
 - (1) Contact number
 - (2) Mail address
 - (3) Residential particulars.

In case, there is any change of the aforementioned details, the petitioners shall intimate the Court concerned by giving fresh affidavits duly mentioning the change. They shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the pre-arrest bail granted.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:10.03.2023
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